

* OSD REVIEW COMPLETED *

DIRECTOR OF CENTRAL INTELLIGENCE

Security Committee

SECOM-D-045

23 January 1980

MEMORANDUM FOR: Chairman, DCI Security Committee

FROM: [REDACTED]
Executive Secretary

SUBJECT: Revision of DCID 1/7

REFERENCE: [REDACTED] Comments

1. [REDACTED] concurs in the proposed DCID 1/7 as written. Although he is willing to see the DCID approved by the NFIB, he wants SECOM to do more study on the NOFORN issue. His memorandum (reference) states his concerns thereon. They include:

a. Lack of specific criteria for use of the marking, and lack of restrictions on who may impose it.

b. Time required for and uncertain outcome of efforts to seek originator approval for specific releases.

c. Possible tendency to assume that documents without the marking are releasable without checking to determine if such is the case.

2. [REDACTED] proposes that any continued use of NOFORN take account of his concerns and be limited to intelligence information which by specific criteria is determined not to be releasable to any foreign government.

3. The Committee deliberated at length on the NOFORN marking. The first strawman revision considered by the Compartmentation Subcommittee eliminated NOFORN in favor

of emphasizing the negative presumption on release. CIA, NSA and DIA members of the subcommittee urged its restoration. (The CIA position was based on NFAC and DDO views.) The other members agreed and reported out a draft revision including this control. SECOM itself tentatively agreed to drop NOFORN based on a presentation by [] When that collective view started to unravel we sent the DCID back for further work. The subcommittee considered the issue thoroughly, and reported back a draft that included NOFORN. Their consensus was that the control, while redundant in many cases, was necessary as a visual reminder of the sensitivity of some information and as a check against unthinking release to third parties. We told the DCI of this in December 1979 when we sought his approval for circulation to the NFIB. 25X1

4. Some thoughts on [] stated concerns: 25X1

a. The lack of specific criteria for use of NOFORN reflects a preference for an illustrative approach which avoids limits on use of the control. The language used in the draft DCID is patterned after that of the current (1976) version, with some additions. So long as the criteria are cast broadly enough, it may be possible to prescribe specifics for use of NOFORN, just as was done in the draft for all the other controls.

b. The contention that restrictions are lacking on who may assign NOFORN controls is not consistent with our understanding of Community practices and CIA usage. As is the case for security classifications, recommendations by working level personnel on control markings are subject to supervisory review before documents are released by departments and agencies. This Defense perception may be based on past history when DDO elements did overuse NOFORN on agent raw reporting. That situation was corrected through SECOM action some years ago.

c. We have no basis for addressing the claim that is a "rare case where an overseas liaison officer takes the trouble to return for the originator's approval" (to release a NOFORN document). If one accepts the legitimacy of the process which screens the marking's application, then one ought to expect

that field requests for reconsideration would be infrequent and limited to clearly significant instances. The identity of the originator of a controlled item is always traceable through the publisher of the document at hand. In some cases the tracing effort may involve more than one stage and require some time. We have been assured by both CIA and NSA that requests for reconsideration get prompt action. CIA says they respond immediately to most telephone inquiries from the Community, and at most to all within a "day or two." It may well be that U.S. liaison officers seldom request reconsideration because they know that the informational content of many NOFORN documents is sanitized to protect sources and is released as finished product through regular channels to foreign governments.

d. The assertion that foreign disclosure personnel may be confused about the releasability of documents not bearing the NOFORN control concerns us. The current DCID and the draft revision are explicit that classified intelligence documents not marked NOFORN may not be released to foreign governments without originator permission. Misunderstanding of that point would seem to reflect inadequate security briefing. The DCID and draft revision are also explicit on who needs to do what to sanitize information in classified documents not marked NOFORN in order to release the substance to foreign recipients. The fact that the guidance on these points is in a different part of the DCID than is that for the NOFORN control should not cause confusion. We believe that any misperception that absence of NOFORN equates to releasability is due to faulty reading of the DCID and not to any deficiency in its provisions.

5. We propose that [redacted] concerns be addressed by an ad hoc group named by you as SECOM Chairman and composed of representatives from CIA, NSA, DIA and the Community Security Group with an observer from [redacted] staff. Their report with recommendations would be addressed to and acted upon by SECOM.

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25X1

[redacted] STATINTL

Attachment

[redacted] Comments

SUBJECT: Revision of DCID 1/7

Distribution:

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STATINTL

SECOM/[] fh (1/23/80)



POLICY REVIEW

THE DEPUTY UNDER SECRETARY OF DEFENSE
Approved For Release 2004/11/03 : CIA-RDP82M00591R000200120014-3
WASHINGTON, D.C. 20301

STATINTL

11 JAN 1980
In reply refer to:
1-02374/80

MEMORANDUM FOR EXECUTIVE SECRETARY, NATIONAL FOREIGN INTELLIGENCE BOARD

SUBJECT: Revision of DCID 1/7, "Control of Dissemination of Intelligence Information"

This office concurs in the proposed DCID 1/7 as written. We believe, however, that continuation of the restrictive marking "NOFORN," permitted under paragraph (6)e. of the proposed draft, deserves additional study by the DCI Security Committee.

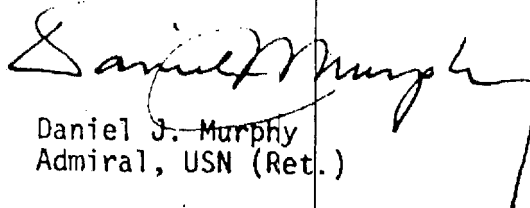
While the NOFORN marking may serve a useful security function in readily identifying intelligence which should not be released to foreign governments, it often poses problems for those charged with responsibility for foreign disclosure and liaison with foreign governments. At present, while there are suggested applications for the marking, there are no specific criteria for its use, nor any restrictions on who may impose it. The originator of intelligence at any level may mark a document NOFORN if he regards it as "appropriate," without regard to any other policy or relationship which may be in effect with cooperating foreign governments. By the simple act of marking a document NOFORN, he effectively precludes release of the information in question to any foreign government.

To be sure, the foreign disclosure/foreign liaison officer who wishes to release the information in question can obtain the permission of the originator, but it is the rare case where an overseas liaison officer takes the trouble to return for the originator's approval--indeed, the identity of the "originator" is often not readily apparent. Thus the foreign liaison officer--even if he believes the application of the NOFORN marking to be inconsistent with established policy and relationships with the foreign government involved--is confronted with a time-consuming and an often uncertain task if he wishes to pursue release of the document in question.

He is further confounded by the haphazard use of the marking. For those items marked NOFORN, he has an easily identifiable guidepost; but for those items which do not carry the NOFORN marking, he has no way of knowing whether they have, in fact, already been evaluated in this light or not. He may be inclined to treat items not so marked as releasable, when they may not be. In short, the absence of the marking conveys a confusing signal.

If the NOFORN marking is to be retained, its use should be limited to a manner which takes into account these problems. Ideally, its use ought to be limited to intelligence which is not, by specific criteria, releasable to any foreign government. It ought not to be left to the judgment of an individual. Means of expediting reconsideration of a particular NOFORN marking might also be explored.

I would like to see the DCI Security Committee, in fulfillment of its Charter, take on this problem again, with a view to satisfying these concerns.


Daniel J. Murphy
Admiral, USN (Ret.)